

ANNOTATED STATUTES

OF

WISCONSIN,

CONTAINING THE

GENERAL LAWS IN FORCE OCTOBER 1, 1889,

ALSO

THE REVISERS' NOTES TO THE REVISED STATUTES OF 1858 AND 1878,
NOTES OF CASES CONSTRUING AND APPLYING THE CONSTITU-
TION AND STATUTES, AND THE RULES OF THE COUNTY
AND CIRCUIT COURTS AND OF THE SUPREME COURT.

BY

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BY AUTHORITY OF CHAPTER 222, LAWS OF 1889.

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PART IV.

CRIMES AND THE PUNISHMENT THEREOF; PROCEEDINGS IN CRIMINAL CASES; AND PRISONS, THEIR MANAGEMENT AND DISCIPLINE.

TITLE XXXII.

CRIMES AND THE PUNISHMENT THEREOF.

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CHAPTER CLXXXI.

OF OFFENSES AGAINST THE LIVES AND PERSONS OF INDIVIDUALS.

Homicide. SECTION 4337. The killing of a human being, without the authority of law, by poison, shooting, stabbing, or any other means, or in any other manner, is either murder, manslaughter, or excusable or justifiable homicide, according to the facts and circumstances of each case.

[Sec. 1, ch. 133, R. S. 1849.] Sec. 1, ch. 164, R. S. 1858.

Revisers' note to this title — Sections and provisions omitted and the reasons therefor. Sec. 26, ch. 164, R. S. 1858. This section is clearly in conflict with the constitution, art. 3. No one can be disfranchised for crime except on conviction. This section disfranchises for an act committed in another state, which may or may not be a crime in some states; and in no case necessarily upon conviction. The constitution authorizes the legislature to extend suffrage, but not restrict it, except in cases mentioned therein.

Sec. 30, ch. 164, R. S. 1858. This section prescribes the punishment of manslaughter, generally in conflict with the punishments provided for its different degrees.

Sec. 48, ch. 64, R. S. 1858. This section creates a very uncertain and loose offense in conflict with other provisions. Malicious killing is a higher crime than this is made, and wilful carelessness is punished by other provisions.

Secs. 49 and 50, ch. 164, R. S. 1858. Same provisions made elsewhere in this revision.

Sec. 17, ch. 165, R. S. 1858. Same provision elsewhere.

Sec. 26, ch. 125, R. S. 1858, and sec. 1, ch. 14, 1868. All these sections covered by the definition of the crime of "false pretenses."

Sec. 2, ch. 36, 1869. This and all other provisions specially requiring public officers to do their duty in certain cases, unnecessary, and leave the inference that they need not do it, in other cases.

persons passing over or near the same, shall be punished by fine not exceeding fifty dollars, nor less than two dollars.

Ch. 103, 1871. The substance retained, but leaving responsibility with persons using machine to protect it from dangerous use.

This section does not apply to an agricultural machinery at a fair: *Phillips v. Agricultural Society*, 60 Wis., 401.

Carrying concealed weapons. SECTION 4397. Any person who shall go armed with any concealed and dangerous weapon, shall be punished by imprisonment in the county jail not more than six months, or by fine not exceeding one hundred dollars: provided, this section shall not apply to any policeman or officer authorized to serve process.

Sec. 1, ch. 7, 1872.

Dangerous weapon. See note to sec. 4354. See, as to minors and intoxicated persons, sec. 4397b.

Toy fire-arms, sale or use of prohibited. SECTION 4397a. [*Ch. 116, 1882.*] 1. It shall be unlawful for any person to sell or use, or have in his possession, for the purpose of exposing for sale or use, any toy pistol, toy revolver, or other toy fire-arm.

2. Any person violating any of the provisions of this act, on conviction thereof, shall be punished by imprisonment in the county jail not exceeding six months, or by fine not exceeding one hundred dollars, or by both fine and imprisonment, in the discretion of the court.

Minors not to go armed. SECTION 4397b. [*Ch. 329, 1883.*] 1. It shall be unlawful for any minor, within this state, to go armed with any pistol or revolver, and it shall be the duty of all sheriffs, constables, or other public police officers, to take from any minor any pistol or revolver, found in his possession.

Revolvers, etc., not to be sold to minors. 2. It shall be unlawful for any dealer in pistols or revolvers, or any other person, to sell, loan or give any pistol or revolver to any minor in this state.

Intoxicated persons not to go armed. 3. It shall be unlawful for any person in a state of intoxication to go armed with any pistol or revolver. Any person violating the provisions of this act shall be punished by imprisonment in the county jail not exceeding six months, or by fine not exceeding one hundred dollars.

Penalty for assault and for using abusive language. SECTION 4398. [*As amended by ch. 189, 1882.*] Any person who shall assault another, when not excusable or justifiable, or who shall use in reference to and in the presence of another, or in reference to and in the presence of any member of his family, abusive or obscene language, intended or naturally tending to provoke an assault or any breach of the peace, shall be punished by imprisonment in the county jail not more than three months, or by fine not exceeding one hundred dollars. The provisions of this section shall not be applicable to any city or village which has enacted an ordinance under its charter for the punishment of the same or similar offense.

New section. Laws of Indiana and Ohio.

A complaint under this section must set forth the language used: *Steuer v. State*, 59 Wis., 472. And allege that it was used in the presence of the complainant or of some member of his family: *Peters v. State*, 68 id., 339. And the name, if it is known, of the person in reference to and in whose presence the language was used: *State v. Clarke*, 31 Minn., 207.

The words "wanton or obscene language," as used in a city ordinance, held equivalent to lewd or lascivious language: *Sutton v. McConnell*, 46 Wis., 269.

The manufacture, sale and transportation of articles for unlawful purposes prohibited. SECTION 4398a. [*Sec. 1, ch. 342, 1885.*] Any per-